

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE JIMMY CUMBERLAND, *et al.*,  
*Debtors.*

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CRYSTAL DUNN,  
*Appellant,*

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§ CIVIL ACTION H-06-0332

vs.

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JIMMY AND VALERIE CUMBERLAND,  
*Appellees.*

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**ORDER**

On August 29, 2006, the court ordered appellant Crystal Dunn to either file a designation of items to be included in the record on appeal and a statement of issues to be presented as directed by Bankruptcy Rule 8006, or show cause why this action should not be dismissed. On September 11, 2006, Dunn apparently filed a letter which may be liberally construed as a statement of the issues she wishes to present on appeal.<sup>1</sup>

There is, however, still no designation of items to be included in the record which was due more than seven months ago. Appellant has also never requested an extension of time or a continuance of any kind and has provided no explanation for failing to comply with Bankruptcy Rule 8006. Dismissal of a bankruptcy appeal may be warranted under such circumstances. *See, e.g., In re Kloian*, 72 Fed. Appx. 364, 365 (6th Cir. 2003) (per curiam) (unpublished) (district court did not abuse its discretion in dismissing bankruptcy appeal where debtor failed to designate items for appeal or provide transcripts of bankruptcy court proceedings); *In re Serra Builders, Inc.*, 970 F.2d 1309,

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<sup>1</sup> The letter is unsigned and otherwise unidentified. *See* Dkt. 5. The court will assume that it was filed by Dunn in response to the court's August 29, 2006 order. It should also be noted that there is no indication that the letter was served on the appellees.

1311 (4th Cir. 1992) (dismissal of appeal for failing to timely designate records of items to be included in record was more than fifteen days late and no request for an extension of time was filed); *In re Gelso Investments V, LLC*, 2003 WL 22282346, at \*4 (N.D. Cal. 2003) (involuntary dismissal warranted where there was no good cause shown for failing to designate record within ten day deadline, or prosecute the appeal for more than eleven months); *In re Bock Laundry Mach. Co.*, 63 B.R. 221, 221-22 (N.D. Ohio 1986); *In re Wilson*, 53 B.R. 123, 124-25 (D. Mont. 1985) (appeal dismissed where no statement of issues or designation of items for inclusion filed for more than three months); *Beyer Aviation, Inc. v. City of Dubuque, Iowa*, 37 B.R. 1022, 1023 (N.D. Iowa 1984).

Accordingly, appellant is ORDERED for the second time to fully comply with the requirements of Bankruptcy Rule 8006 within ten days, or this appeal will be dismissed.

Signed on September 14, 2006, at Houston, Texas.

Gray H. Miller  
United States District Judge